

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

STEVEN KLESTINEZ,

Plaintiff,

**6:21-cv-696
(GLS/ATB)**

v.

ALLY et al.,

Defendants.

SUMMARY ORDER

Pro se plaintiff Steven Klestinez commenced this action on June 15, 2021 against defendants ACT Team, the Office of Mental Health (OMH), and the Commissioner of OMH. (Dkt. No. 1.) On September 8, 2021, the court adopted Magistrate Judge Andrew T. Baxter's August 19, 2021, Order and Report-Recommendation which recommended dismissing all claims against ACT Team and OMH without leave to amend and dismissing all claims against the Commissioner of OMH with leave to amend. (Dkt. No. 8, 9.) Klestinez filed an amended complaint on September 13, 2021, naming "Ally, Marina, Lisa, Dr. Amy Lucas, ACT-team and [the Commissioner of OMH], Ann [Sullivan]," as defendants. (Dkt. No. 10 at 1.)

Pending is a Report-Recommendation (R&R) by Magistrate Judge Baxter, issued on September 16, 2021. (Dkt. No. 11.) The R&R recommends dismissing the amended complaint for failing to state a claim upon which relief could be granted. (Dkt. No. 11 at 7-8.) Klestinez subsequently filed objections to the R&R. (Dkt. No. 12.)

Before entering final judgment, this court routinely reviews all report and recommendation orders in cases it has referred to a magistrate judge. If a party has objected to specific elements of the magistrate judge's findings and recommendations, this court reviews those findings and recommendations *de novo*. See *Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484, 2006 WL 149049, at *3 (N.D.N.Y. Jan. 18, 2006). In cases where no party has filed an objection, or only vague or general objections have been filed, this court reviews the findings and recommendations of the magistrate judge for clear error. See *id.* at *5. “[W]hen an objection merely reiterates the *same arguments* made by the objecting party in its original papers submitted to the magistrate judge, the Court subjects that portion of the report-recommendation challenged by those arguments to only a *clear error* review.” *Smurphat v. Hobb*, No. 8:19-CV-0804, 2021 WL 129055, at *2 (N.D.N.Y. Jan. 14, 2021) (citations

omitted).

In support of his objections, Klestinez merely reiterates the incoherent and vague allegations already included in the amended complaint, (Dkt. No. 12), which triggers clear error review. The court has carefully considered the R&R, and finds no clear error in Magistrate Judge Baxter's thorough analysis, which addresses Klestinez's allegations and provides appropriate reasons for dismissing Klestinez's amended complaint. Accordingly, the R&R is adopted in its entirety.

Accordingly, it is hereby

ORDERED that the Report-Recommendation (Dkt. No. 11) is **ADOPTED** in its entirety; and it is further

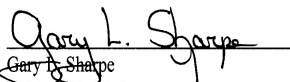
ORDERED that Klestinez's amended complaint (Dkt. No. 10) is **DISMISSED**; and it is further

ORDERED that the Clerk is directed to close this case; and it is further

ORDERED that the Clerk provide a copy of this Summary Order to Klestinez in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

January 12, 2022
Albany, New York



Gary L. Sharpe
U.S. District Judge